Integrated Pest Management Act and Regulations
Intentions Paper – Overview

Introduction

The Ministry of Water, Land and Air Protection is in the final stages of drafting regulations for the *Integrated Pest Management (IPM) Act*.

This Overview is one part of an *Intentions Paper* (that also includes detailed Questions and Answers and a Response Form) prepared by the ministry to provide information about the *IPM Act* and proposed regulations.

Throughout the *Intentions Paper*, key changes from current legislative requirements are highlighted with a "☞" symbol.

The three sections of the *Intentions Paper* have been formatted as separate (stand-alone) documents:

1) The Overview describes the goals of the *IPM Act* and proposed regulations; the consultation process used to develop the new legislation; key changes resulting from the new legislation; and a description of the legislation's key elements – a "Discussion Box" summarizing a Private Forest Landowners Association proposal for regulating pesticide use on private forest lands is also provided;
2) The Questions and Answers provide detailed information concerning the new Act and proposed regulations; and
3) The Response Form includes directions for those wishing to make comments on these intentions – note that **comments must be received by October 22, 2004** in order to be considered.

The three components of the *Intentions Paper*, as well as a link to the full text of the *IPM Act*, are posted on the ministry's pesticide legislation renewal webpage. The information can be accessed by clicking on the address below, or from the Ministry of Water, Land and Air Protection homepage, by following the *Environmental Protection Division*, *Environmental Management Branch*, and *Integrated Pest Management* links.

Pesticide legislation renewal webpage: http://wlapwww.gov.bc.ca/epd/epdpa/ipmp/pestact/index.html

Development of the New *IPM Act* and Regulations

The Environmental Management Branch of the ministry is responsible for managing pesticides in the province for the protection of human health and the environment. The ministry will administer the *Integrated Pest Management Act*, regulating the sale, use and handling of pesticides in British Columbia. The *IPM Act* was passed by the BC Legislature in October 2003, to replace the *Pesticide Control Act*, which has been in force since 1977. The *IPM Act* is not yet in force, as its implementation requires the support of accompanying detailed regulations. These are scheduled to be completed and brought into effect by the end of 2004.

☞ The primary goals of the new *IPM Act* and Regulations are to:

- Establish regulatory requirements based on degree of risk to human health and the environment;
- Promote environmental stewardship and integrated pest management; and
- Set clear and enforceable regulatory requirements.

☞ The new Act and proposed regulations require the use of IPM for: pesticide use on public land; on private land used for forestry, transportation and pipelines; and for pest control service companies.

The Act links to provisions established under the federal *Pest Control Products Act* in respect to pesticide classification, labeling and permits for research on non-labeled uses.

☞ *Integrated Pest Management (IPM)*

The new Act defines IPM as "a process for managing pest populations that includes the following elements:

a. Planning and managing ecosystems to prevent organisms from becoming pests;
b. Identifying pest problems and potential pest problems;
c. Monitoring populations of pests and beneficial organisms, damage caused by pests and environmental conditions;

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d. Using injury thresholds in making treatment decisions;

e. Suppressing pest populations to acceptable levels using strategies based on considerations of:
   - Biological, physical, cultural, mechanical, behavioural and chemical controls in appropriate combinations, and
   - Environmental and human health protection; and

f. Evaluating the effectiveness of pest management treatments."

Because it requires a proactive and preventative approach, IPM reduces reliance on pesticides and can lead to a reduction in their use.

Consultation Process for the IPM Act and Proposed Regulations

The process to draft the new Act and proposed regulations has included:

- In the fall of 2002, public posting of an initial discussion document on the proposed new legislation, and hosting of a provincial information and discussion workshop with a broad range of invited stakeholders – resulting in over 125 submissions, including 30 from associations or corporations;
- Through the fall and spring of 2003-2004, letters to existing licence and permit holders (pest control services, vendors, and permit and pest management plan holders), and posting of a discussion document addressing proposed contents of the regulations for public comment – resulting in over a hundred responses and submissions; and
- Technical workshops through the spring of 2004, involving sector-specific government and other pest management and environmental protection specialists, to discuss regulatory requirements for the application of pesticides under Pest Management Plans related to mosquito control, noxious weed (invasive plant) control, industrial right-of-ways, railways, forest vegetation management, and landscape and structural IPM.

The following diagram outlines the consultation process for development of the Act and Regulations.

IPM Legislation Development and Consultation Process:

Sept. 2002 – March 2003
Initial discussion document and consultations
Oct. 2003
Integrated Pest Management Act
Nov. 2003
IPM Regulations discussion document and questions
Nov. 2003- Jan. 2004
Public comments and response
Technical group consultations
Draft Regulations:
- Minister's Regulation
- Administrator's Regulation
Sept. 2004
Posting of Intentions Paper for final public comment
Directed consultations on specific elements of the Regulations
Review by BC Pesticide Control Committee
Dec. 2004
Integrated Pest Management Act and Regulations drafted

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Key Changes Resulting from the New *IPM Act*

The *Integrated Pest Management Act* and proposed regulations include some significant changes to provisions under the *Pesticide Control Act*.

☞ *Requirements for ministry approval of permits and Pest Management Plans for all pesticide uses on public and specified private lands are eliminated* – only pesticide uses of "high concern" prescribed by regulation will require approval by permit.

☞ For most uses that previously required permits and approvals, the new system requires a proponent to:

- Develop a **Pest Management Plan** (PMP) in accordance with regulations, using the principles of integrated pest management;
- Conduct public consultation on the PMP in accordance with regulations;
- Submit a **pesticide use notice** (for PMP registration), that lists intended use of pesticides to the ministry;
- Receive a confirmation of receipt of the pesticide use notice (**PMP registration**) from the ministry; and
- Use pesticides strictly in accordance with the notice and standards for protecting human health and the environment prescribed by the regulations.

☞ *Provisions for compliance are enhanced*, including:

- Establishing a "Qualified Monitor" category of person, and provisions to identify when such a person should be required or employed by a pesticide user to assess conditions, or to monitor compliance with human health and environmental protection requirements; (Note that no regulations pertaining to use of Qualified Monitors are to be included when the regulations are first brought into force and will be dealt with by subsequent amendment, following additional consultation.)
- Increasing penalties for offences under the Act (e.g., for an individual's first offence, from a previous maximum of $2,000 to $200,000);
- Providing Courts with sentencing options (e.g., directing payment of funds or services to environmental restoration); and
- Enabling the setting and collection of administrative penalties to reduce reliance on the court system (the details of this system warrant additional public consultation and will not be implemented when the regulations are first brought into force).

☞ *Powers to make regulations* are given to:

- The **Minister** to, for example: establish classes of pesticides and situations requiring a licence certificate or permit; set various fees; and require public, including First Nations, consultation and notification before pesticide use; and
- The **Administrator** to, for example: set standards for the protection of human health and the environment; assign pesticides to the classes set by the Minister; and set detailed requirements for such considerations as public notification, monitoring and record keeping.

Benefits of an Integrated Pest Management Regulatory Approach

Provincial standards for pesticide use establish clear enforceable requirements and minimize regional inconsistencies. Stakeholders are engaged in the preparation and updating of provincial standards, rather than reviewing conditions of individual proposals.

The *shift from permits and approvals to Pest Management Plans and enforcement for compliance* is intended to reduce red tape and encourage stewardship by practitioners, while focusing ministry resources on setting and ensuring compliance with standards.

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Elements of the New Act and Regulations

1. Purview and Intent of the Act

The *Integrated Pest Management Act* and Regulations establish conditions for the sale and use of pesticides in British Columbia through a classification system and regulatory provisions for licences, certification, permits, Pest Management Plans and PMP registration – as well as reporting, monitoring and enforcement provisions.

Under the *IPM Act*, a person must not "use a pesticide that causes or is likely to cause, or use, handle, release, transport, store, dispose of or sell a pesticide in a manner that causes or is likely to cause an unreasonable adverse effect." This general prohibition, in concert with use of integrated pest management, underpins the ministry's intentions.

The Act also lists the "decisions" that may be appealed and provisions for appeal to the **Environmental Appeal Board** (established under provisions of the *Environmental Management Act*).

2. Classification of Pesticides

The *IPM Act* and Regulations establish **classes** of pesticides, and requirements for licences, certification, permits and PMP registration for each class. The classification system utilizes definitions, labeling and other standards for sale and use of pesticides set out in the federal *Pest Control Products Act* – and is essentially unchanged from the previous system.

Pesticide classes under the *IPM Act* are:

- **Permit Restricted:** most strictly controlled, requiring a permit for purchase or application;
- **Restricted**: requiring a pesticide applicator certificate for purchase or use;
- **Commercial**: as specified on their label;
- **Domestic**: intended for use by non-professionals – in or around private homes and gardens; and
- **Exempted**: specified pesticides are assigned to this class if the Administrator considers that there will be no significant increase in risk to human health or the environment by not requiring certification, licencing, permits or PMP registration for their use or sale.

☞ The lists of Permit Restricted and Exempted pesticides have been reviewed and revised in the proposed regulations, and will be able to be subsequently updated in a timely manner. See the proposed lists of Permit Restricted and Exempted pesticides included in the Questions and Answers section of the *Intentions Paper*.

See the table on the following page for a summary of requirements for each class of pesticide under the *IPM Act* and proposed regulations.

3. Licences for Sale or Use of Pesticides

As with current regulations, a licence is required for the sale of any non-exempted pesticides labeled or designated for domestic, commercial or restricted use. A person or company who provides a service using pesticides also still requires a licence.

☞ Use of pesticides on public lands will no longer require individual "endorsements" from the ministry. Rather, service providers will be required to hold a licence and to ensure compliance with standards for protection of human health and the environment, specified by the regulations. These are discussed in detail in the Question and Answers section of the *Intentions Paper*.

☞ A **licence** will be required for:

- **Pesticide use on public land** to manage:
  - Pests of structures,
  - Pests of landscapes,
  - Mosquito larvae,[1] or
  - Invasive plants (noxious weeds), vegetation on industrial sites, or vegetation on forest land – where the area of use is less than 20 ha per year;
- **Pesticide use on private land**:
  - In rooms occupied as living accommodation, or to "common areas," in a "multi-resident" building with four or more residences,[2]

[1] Where the pesticide is *Bt* and the area on which it is used is less than 1 ha per year.

- To manage vegetation on land used for, public utilities, transportation or pipelines – where the area on which it is used is less than 20 ha per year, or
- On land used for forestry (note that a requirement for private forest land owners to operate under regulations that pertain to licences is a new proposal put forward by the Private Forest Land Owners Association – the ministry invites detailed comment on this subject – see "Discussion Box" in the final section of this Overview).

There are a few exceptions to these general requirements. These are discussed in detail in the Questions and Answers section of the *Intentions Paper*.

Summary of Requirements for each Class of Pesticide Under the *IPM Act* and Regulations

Requirements	Pesticide Classes				
	Permit-Restricted	Restricted	Commercial	Domestic	Exempted
Permit required for purchase and all uses	Yes	No	No	No	No
Applicator certificate required for purchase and all uses	Yes	Yes	No	No	No
Purchase must be recorded by Vendor	Yes	Yes	Yes	No	No
Pesticide use **licence** required for use on public land to manage pests of structures or landscapes, or vegetation on industrial sites (where application is less than 20 ha per yr)	Yes	Yes	Yes	Yes	No
Pesticide use **licence** required for use on private land in rooms occupied as living accommodation, or to the common area, in a multi-resident building	Yes	Yes	Yes	Yes	No
Pest Management Plan and confirmation of receipt of pesticide use notice (**PMP registration**) required for specified pesticide use on public land (greater than 20 ha per yr) or private land used for transportation or public utilities	Yes	Yes	Yes	Yes	No
Service licence required for fee-for-service applications	Yes	Yes	Yes	Yes	No
Applicator certificate required to supervise applications to public land or on fee-for-service basis	Yes	Yes	Yes	Yes	No
Vendor licence required for selling	Yes	Yes	Yes	Yes	No
Dispenser certificate required for selling	Yes	Yes	Yes	Yes	No
Pesticide use **permit** required for uses of high concern (e.g., aerial application over urban areas)	Yes	Yes	Yes	Yes	Yes
Use must not cause an unreasonable adverse effect	Yes	Yes	Yes	Yes	Yes

[2] Such as apartment buildings and condominiums.

4. *Certification for the Sale or Use of Pesticides*

A **certificate** is required for the sale or use of pesticides for:

- Any person using Permit Restricted or Restricted pesticides;
- The pilot of an aircraft applying a pesticide; or
- Any person who performs duties under a licence, permit or PMP registration as specified by the regulations.

☞ Any licensee selling pesticides must ensure that a certified dispenser is available to provide information to potential buyers. The proposed regulations also include a requirement to post signs advising customers of the availability of certified staff, and to use a pesticide only according to label directions. This is a change from the current requirement that a certified individual must directly discuss information concerning pesticides with every potential purchaser.

Licensees, PMP registrants[3] and permittees must ensure that pesticides are used by a certified applicator, supervising no more than four uncertified staff within visual and auditory contact.

The sale or use of a pesticide classed as "Exempted" does not require a certificate.

5. *Pesticides and Applications that Require a Permit*

A **permit** for use of pesticides is required for:

- Use of a Permit Restricted pesticide;
- Aerial application of a pesticide;[4]
- Pesticide application on public land, or on a body of water that is not human-made and self-contained, other than those uses requiring a licence or PMP registration;[5] or
- Pesticide use that requires a licence or PMP registration for which a deviation is requested from requirements for preparation of a PMP, consultation, notification or pesticide use.[6]

Permit applicants must submit to the Administrator, proof that specified consultation (including consultation with potentially affected First Nations where applicable) has been provided for, and a description of proposed actions to respond to comments received during consultation.

6. *Pest Management Plans and PMP Registration*[7]

☞ The following uses of pesticides will require a PMP and PMP registration:

- To manage vegetation and forest health for the production of timber (Note that a proposal put forward by the Private Forest Landowners Association would require a licence, rather than a PMP and PMP registration, for pesticide use on private forest land for forest management – see Discussion Box in the final section of this Overview.);
- For mosquito control programs (including treatment of larvae and adults) on public land and applications to water bodies that are not human made and self-contained;
- To manage invasive plants (noxious weed control) where the area of use is greater than 20 ha per year;
- To manage vegetation (and for the purpose of wood preservation) on railway rights-of-way, yards and associated facilities;
- To manage vegetation on road, power transmission, and pipeline rights-of-way; and

[3] A PMP registrant is a holder of a confirmation of pesticide use notice, operating under a Pest Management Plan (PMP).

[4] Except for aerial application on land used for agriculture or application of a pesticide whose main active ingredient is a biological organism, or glyphosate (if applied in accordance with requirements set out in a Pest Management Plan and PMP registration, or a licence). Aerial application of any pesticide over urban areas, however, does require a permit.

[5] This includes pesticide uses on public land for which no standards have been prescribed, unless the use is research that follows requirements under the federal *Pest Control Products Act*.

[6] The permit required in this case is for the deviation and would be in addition to the requirement for a licence or a PMP and PMP registration.

[7] A PMP registration is confirmation from the ministry of receipt of a pesticide use notice stating completion of a Pest Management Plan by the applicant.

- To manage vegetation on industrial sites on public land where the area to which pesticide is applied is greater than 20 ha per year.

A Pest Management Plan and PMP registration is not required for use of Exempted pesticides.

The regulations will specify the information to be contained in a PMP, as well as consultation, notification, pesticide storage, record keeping, and reporting requirements. Standards for the protection of human health and property, and the environment, will also be set out. The regulations will include requirements concerning public consultation.

A detailed description of the proposed regulatory requirements for each category for which a Pest Management Plan and PMP registration is required is provided in the Questions and Answers section of the *Intentions Paper*.

7. *Public and First Nations Consultation Requirements*

☞ Consultation with the public, including local First Nations, in regard to use of pesticides will be required under permits and PMP registration – to ensure protection of human health and the environment and to avoid unreasonable infringement of aboriginal rights and title. First Nations consultation requirements will also be guided by ministry policy.

Public consultation is required:

- By a permit applicant for use of a pesticide of high concern, prior to consideration by the Administrator; and
- As part of preparing a Pest Management Plan.

☞ Consultation requirements include: advertising notices in local newspapers; making reasonable effort to contact individuals or members of organizations, including First Nations, who may be significantly impacted by pesticide use; allowing sufficient time for response; and evaluating comments prior to finalization of plans or proposed actions.

Detailed descriptions of public and First Nations consultation requirements under the proposed regulations are provided in the Questions and Answers section of the *Intentions Paper*.

8. *Public and First Nations Notification Requirements*

The proposed regulations include requirements for notification of the public, property owners and residents prior to pesticide use by licensees, permittees, and PMP registrants.

☞ Specific uses of pesticide will require notification of the Administrator (e.g., before the first use of fumigants and before the first aerial application by a licensee). The proposed regulations also include specific requirements for notification of people who may enter the following treated areas:

- Living accommodations;
- Common areas of multiple residence buildings or properties;[8] or
- Outdoor public use areas.

The Administrator must also be notified as soon as practically possible of non-compliance with specified aspects of the *IPM Act* Regulations.

Detailed descriptions of public and First Nations notification requirements under the proposed regulations are provided in the Questions and Answers section of the *Intentions Paper*.

9. *Storage, Use and Record Keeping Requirements*

Storage, use and record keeping requirements specified in the new *IPM Act* and Regulations generally follow current requirements – with one significant addition – the requirement to consider and document integrated pest management (IPM) practices.

[8] "Common areas" would include hallways and utility rooms in apartments and condominiums, outdoor areas within 5 m of a multi-residence building and trailers or campsites in trailer parks or campgrounds, and play areas or walkways of such properties.

A licensee, permittee or PMP registrant will be required to conduct the following IPM activities as part of the process of using pesticides:

- Consideration, employment or communication of measures to achieve pest prevention where appropriate;
- Correct identification of pest species or pest complexes to be managed;
- Monitoring to determine the presence and location of pests;
- Determination of treatment thresholds for each pest or pest complex, and use of these thresholds to determine when a pesticide may be used;
- Selection of pest treatment methods based on consideration of practical alternatives to pesticides and the protection of human health and the environment; and
- Evaluation of the effectiveness of pesticide use.

Guidelines will be developed to clarify acceptable actions to meet these objectives, given that prevention cannot always be employed, and that treatment thresholds, monitoring and evaluation considerations vary with specific pest treatments.

Discussion Box – Private Forest Landowners Association Proposal for IPM and Pesticide Use on Private Forest Lands

The November 2003 Discussion Document circulated by the ministry proposed that consideration of IPM and use of pesticides on private land used for forestry would be undertaken under Pest Management Plans (and a PMP registration process). Some respondents to the Discussion Document suggested that standards for the protection of the environment and human health could be maintained with less process.

The Private Forest Landowners Association (PFLA) has proposed a streamlined approach involving regulation of IPM and pesticide use on private lands through a private land "forest pest management licence." The ministry is circulating this proposal with the *Intentions Paper* in order to solicit broad comment on the proposed approach for potential incorporation in the *IPM Act* Regulations.

In a manner consistent with several other jurisdictions, regulations under the *IPM Act* are to contain standards for the protection of human health and the environment. These results-based standards are intended to prevent offsite impacts and protect fish, wildlife, other organisms, water quality, stream banks and potentially unstable soils. Uniform regulatory standards provide consistency for practitioners and facilitate enforcement by ministry staff. Significantly increased penalties will apply for regulatory contraventions.

Essential elements of the PFLA proposal are summarized below:

1. Private forest land owners intending to use pesticides would be required to obtain a "forest vegetation pest management licence." For landowners who anticipate ongoing vegetation management programs, a term of up to five years would be available for such licences.
2. Requirements for operating under a private land "forest vegetation pest management licence" would be the same as those prescribed for other licensees practicing forest vegetation management. A few additional requirements, specific to landowners who treat areas greater than 20 ha per year, are to be prescribed in the regulations.[9]

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[9] These requirements – including potential requirements for private forest land licensees – are described in further detail in the Questions and Answers section of the *Intentions Paper*.

3. Private forest landowners would be required by regulation to practice the six elements of integrated pest management identified in the *IPM Act* (see pages 1 and 2 of this Overview).

4. Consultation and notification requirements for forest pesticide use on private forest land would be targeted towards adjacent landowners, legal occupants of adjacent land, or an agent or land manager authorized by the land owner. Licensees would be required to notify these parties, advising them of intention to use pesticides at least 14 days prior to treatment. Water licence holders with a water intake downstream of, and in close proximity to, the pesticide treatment areas would also be contacted. In addition, for proposed pesticide treatments within a community watershed, communication would be required with the holder of the community water licence. In all cases, these communications would seek to identify the location of any water licence intakes or wells and any site-specific concerns regarding the pesticide application. The landowner proposing the pesticide application would be required by the *IPM Act* and Regulations to ensure that there are no unreasonable adverse effects on human health and the environment.

5. Private forest landowners would be required by the regulations to:

- Maintain the same pesticide free zones and no treatment zones on water bodies, water supply intakes and wells as are required on Crown forest land;
- Provide to the Administrator, notification of intention to use pesticides at least 14 days before application;
- Notify adjacent landowners and water licence holders;
- Comply with restrictions on pesticide product labels;
- Use pesticides in accordance with regulations for safe use;
- Ensure that forest pesticide use is carried out by, or under the direct supervision of, certified applicators;
- Post notification signs at entrances to pesticide treatment areas where public access is likely; and
- Maintain records of all forest pesticide use and submit annual reports to the Administrator.

6. An application for the private land "forest vegetation pest management licence" would include the following information:

- The name and contact information for the principal contact that is responsible for vegetation management on the area of private forest land;
- A map or legal description of the private land to be covered by the licence;
- A prescribed fee;
- Identification of the forest pesticides that may be used;
- If aerial treatment is proposed, identification of the forest pesticides that may be used for such applications; and
- A commitment that forest pesticides would be used in a manner consistent with the current version of the Ministry of Forests Herbicide Field Handbook.